UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,262	07/18/2003	Frederick S. M. Herz	REFH-0155	3489

7590 11/21/2008	EXAMINER	
Frederick S. M. Herz	WHIPPLE, BRIAN P	
P O Box 67		
Warrington, PA 18976	ART UNIT	PAPER NUMBER
	2452	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/623,262	HERZ ET AL.
	Examiner	Art Unit
	BRIAN P. WHIPPLE	2452

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 November 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-5 are pending in this application and presented for examination.

Response to Arguments

2.   Applicant's argument, see page 4, filed 11/3/08, with respect to the 35 U.S.C. 112,

second paragraph rejection of claim 5, has been fully considered and is persuasive. The 35

U.S.C. 112, second paragraph rejection of claim 5 has been withdrawn.

3.   Applicant's remaining arguments, see pages 4-7, filed 11/3/08, with respect to the 35

U.S.C. 103 rejections of claims 1-5, have been fully considered but they are not persuasive.

4.   As to claim 1, Applicant's arguments (see page 5, lines 12-18) fail to comply with 37

CFR 1.111(b) because they amount to a general allegation that the claims define a patentable

invention without specifically pointing out how the language of the claims patentably

distinguishes them from the references.

        In response to Applicant's arguments (see page 5, lines 12-18) against the references

individually, one cannot show nonobviousness by attacking references individually where

the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

5.   Further regarding claim 1, Applicant argues (see page 5, lines 20-24) Smirnov fails to

disclose registering the person as a user type with associated pseudonym. The Examiner

respectfully disagrees. The user type is only mentioned once in the claims in reference to

registering the person as a user type with associated pseudonym. Therefore, there is no

contrasting user types and simply registering the person with an associated pseudonym

results in the person being the afore-mentioned user type (i.e., the type of user is one who is

registered with an associated pseudonym). Smirnov cites registering a person with an

associated pseudonym in the cited sections.

        In response to Applicant's argument (page 5, lines 24-26) that the references fail to

show certain features of applicant's invention, it is noted that the features upon which

applicant relies (i.e., controlling access to stored data based on a set of rules that limit access

to the stored data by user type) are not recited in the rejected claim(s). Although the claims

are interpreted in light of the specification, limitations from the specification are not read

into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6.   Further regarding claim 1, Applicant argues (see page 6, lines 1-3) Ho fails to disclose

a service provider identifier. The Examiner respectfully disagrees. Ho clearly outlines a

subject ID (Col. 3, ln. 4-13, "last name, ... patent identification number, inmate identification

number, account number...") and that the user accessing information on the subject through

the subject ID can be a service provider such as a "a doctor, a lawyer, ... banker" (Col. 2, ln.

49-56). Therefore, Ho is directed to a service provider (such as a doctor) accessing data

records through the use of a subject ID that relates the identified subject to the service

provider (e.g., a patient's medical records may be accessed by a doctor).

7.   Further regarding claim 1, Applicant argues (see page 6, lines 19-20) Kesarwani fails

to disclose accessing the private data or pseudonyms for the private data stored in the

database. The Examiner respectfully disagrees. Kesarwani discloses accessing the private data

in the database (Col. 6, ln. 34-38).

        In response to Applicant's arguments (see page 6, lines 19-20) against the references

individually, one cannot show nonobviousness by attacking references individually where

the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

8.   Further regarding claim 1, Applicant argues (see page 6, lines 20-22) Kesarwani fails

to disclose validating a relationship between the person, the service provider, and/or a

private data owner and transmitting the message if the relationship is validated. The

Examiner respectfully disagrees. Kesarwani discloses validating a relationship between a

remotely connected office and a main office so that the remote office can upload and/or

download information to/from the main office (Fig. 3; Col. 4, ln. 59-67; Col. 6, ln. 29-38).

Therefore, a relationship between the person at the remote office (i.e., the person) and the

main office (i.e., the service provider) is validated. The language of the claim uses and/or.

Therefore, all three entities need not be disclosed, but rather the person, the service

provider, or the private data owner.

9.   Further regarding claim 1, Applicant argues (see page 6, lines 23-28) Nordman fails to

disclose providing a random factor to the service provider identifier, because of the argument

that the service provider identifier itself is not taught. However, the Examiner has refuted

this allegation in the relevant paragraph(s) above.

10.   Finally, regarding claim 1, Applicant argues (see page 6, lines 29-32) none of the cited

references disclose the use of a set of rules to validate the relationship between a

pseudonymized person and the service provider for communications after the relationship

between the person and the service provider has been validated. The Examiner respectfully

disagrees. The cited sections of Kesarwani disclose the use of a set of rules to validate the

relationship between a pseudonymized person and the service provider for communications

after the relationship between the person and the service provider has been validated [see

the reasons given in the corresponding paragraph(s) above].

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art
> are such that the subject matter as a whole would have been obvious at the time the invention was made to a
> person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

12.   Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Smirnov et al. (Smirnov), U.S. Publication No. 2003/0097383 A1, in view of Ho, U.S. Patent

No. 6,148,342, in view of Kesarwani et al. (Kesarwani), U.S. Patent No. 7,213,258 B1, and

further in view of Nordman et al. (Nordman), U.S. Publication No. 2002/0174364 A1.

13.   As to claim 1, Smirnov discloses a method (the body of the claim does not rely upon

the preamble and therefore, the preamble has not been given patentable weight) comprising:

        a person having personal information for storage ([0152], ln. 1-2 and 6-10; [0351], ln.

1-2);

registering the person with a pseudonymous proxy server as a user type with

associated pseudonym ([0128]; [0132]); and

the pseudonymous proxy server providing the person's associated pseudonym ([0128];

[0132]).

Smirnov is silent on assigning a unique identification (UID) to a person;

set of rules that control the person's access to stored data;

providing a service provider identifier to the person that identifies the person to a

service provider; and

the pseudonymous proxy server providing the service provider identifier with a

random factor.

However, Ho discloses assigning a unique identification (UID) to a person (Col. 3, ln.

4-13); and

providing a service provider identifier to the person that identifies the person to a

service provider (Col. 3, ln. 4-13).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Smirnov by assigning a unique identification (UID) to a

person as taught by Ho in order to uniquely identify individual persons, such as patients, in

order to obtain the proper data, such as medical records for a specific patient.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov by providing a service provider identifier to the person that identifies the person to a service provider in order to enable a service provider to obtain information on a relevant subject.

Smirnov and Ho are silent on set of rules that control the person's access to stored data;

the pseudonymous proxy server providing the service provider identifier with a random factor;

transmitting a message from the person to the service provider through the server, wherein the server receives the message and, based on said set of rules that control the person's access to stored data, validates a relationship between the person and the service provider and transmits the message to the service provider if the relationship between the person and the service provider is validated; and

said server authorizing the person to view the private data owner's actual private data based on said set of rules that control the person's access to stored data of said private data owner.

However, Kesarwani discloses a set of rules that control a person's access to stored data (Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38);

transmitting a message from the person to the service provider through the server (Fig. 3; Col. 6, ln. 29-38), wherein the server receives the message and, based on said set of rules that control the person's access to stored data, validates a relationship between the person and the service provider and transmits the message to the service provider if the relationship between the person and the service provider is validated (Fig. 3; Col. 6, ln. 29-38); and

said server authorizing the person to view the private data owner's actual private data based on said set of rules that control the person's access to stored data of said private data owner (Fig. 3; Col. 6, ln. 29-38)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov and Ho by including a set of rules that control a person's access to stored data and validating relationships between a person and a service provider based on the access rules in order to determine if access should be provided to private data of another user as taught by Kesarwani in order to prevent unauthorized access to data, such as information related to a person or persons other than the user accessing a database.

Smirnov, Ho, and Kesarwani are silent on the pseudonymous proxy server providing the service provider identifier with a random factor.

However, Nordman discloses a pseudonymous proxy server providing a service

provider identifier with a random factor ([0013], ln. 2-6; [0094]).

Applying a random factor to the generated pseudonym is a logical extension of

Smirnov, Ho, and Kesarwani. The intention of a pseudonym is to increase the privacy of a

user. Therefore, assigning a pseudonym in a static or predictable manner would lessen the

effectiveness of the pseudonym's intended use. Therefore, randomly assigning the

pseudonym would increase the likelihood that a user's privacy is protected, as it would be

more difficult to relate the pseudonym to the user absent a predictable assignment technique.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Smirnov, Ho, and Kesarwani by having the

pseudonymous proxy server provide the service provider identifier with a random factor as

taught by Nordman in order to gain the above-mentioned benefits.

14.   As to claim 5, Smirnov, Ho, Kesarwani, and Nordman disclose the invention

substantially as in parent claim 1, wherein the pseudonymous personal information is the

person's medical records (Smirnov: [0152]) and said two or more data storage servers are

controlled by respective medical service providers (Ho: Fig. 3C; Col. 2, ln. 57 – Col. 3, ln. 4;

Col. 7, ln. 46-63), where said person and said respective medical service providers are

permitted access to said person's medical records based on said set of rules (Kesarwani: Fig 3;

Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38), and wherein a transfer of said patient's medical

records from one medical service provider to another medical service provider includes the

replacing of the another medical service provider's name with a pseudonym (Ho: Abstract;

Kesarwani: Fig 3; Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38), pseudonymizing the person's

medical records in accordance with the another medical service provider's access rights

(Smirnov: [0128]; [0132]; [0152]; Ho: Col. 2, ln. 57 – Col. 3, ln. 13; Kesarwani: Fig 3; Col. 4,

ln. 51-54 and 59-67; Col. 6, ln. 29-38), and providing the access rights to the another medical

service provider based on authorization to the person's medical records as granted by the

person (Smirnov: [0128]; [0132]; [0152]; Ho: Col. 2, ln. 57 – Col. 3, ln. 13; Kesarwani: Fig 3;

Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38).

15.   Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smirnov,

Ho, Kesarwani, and Nordman as applied to claim 1 above, and further in view of what was

well known in the art at the time of the invention.

16.   As to claim 2, Smirnov, Ho, Kesarwani, and Nordman disclose the invention

substantially as in parent claim 1, wherein the pseudonymous proxy server controls unique

identifications (UIDs) (Ho: Col. 3, ln. 4-13) and sets of rules for respective persons among

multiple servers (Kesarwani: Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38).

Smirnov, Ho, Kesarwani, and Nordman are silent on a hub and spoke network

configuration.

However, Official Notice is taken (see MPEP 2144.03) that a hub and spoke network

topology is extremely well known in the art. Hub and spoke networks are a desirable

alternative to ring networks in that network failure is reduced through decentralizing

whereas in a ring network a single point of failure could bring down a network.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of

the invention to modify the teachings of Smirnov, Ho, Kesarwani, and Nordman by using a

hub and spoke network configuration as is extremely well known in the art in order to

reduce the likelihood of network failure.

17.   As to claim 3, the claim is rejected for the same reasons as claim 2 above.

18.   As to claim 4, Smirnov, Ho, Kesarwani, and Nordman disclose the invention

substantially as in parent claim 1, but are silent on the person encryption said pseudonym.

However, Official Notice is taken (see MPEP 2144.03) that encryption is extremely

well known in the art. Encryption adds an extra layer of security, which is all the more

important in teachings geared toward pseudonyms to protect data, such as in Smirnov, Ho,

Kesarwani, and Nordman.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov, Ho, Kesarwani, and Nordman by having a person encrypt a pseudonym as is extremely well known in the art in order to add an extra layer of security to the protected data.

Conclusion

19.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the Notice of References Cited (PTO-892).

20.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRIAN P. WHIPPLE whose telephone number is (571)270-

1244. The examiner can normally be reached on Mon-Fri (9:30 AM to 6:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access

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(toll-free). If you would like assistance from a USPTO Customer Service Representative or

access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or

571-272-1000.

Brian P. Whipple   /Kenny S Lin/
/B. P. W./   Primary Examiner, Art Unit 2452
Examiner, Art Unit 2452
11/17/08